Remarks

Applicants respectfully request reconsideration of the above-identified application in view of the amendments to claim 15 and the remarks below (the "Applicants' present response"). Claims 1-4, 6-8, 10-14 and 17-18 are now pending in this application.

In the present Office Action dated November 2, 2005, the Examiner rejected Claims 1-14 and 17-18 under 35 U.S.C. 103(a) as being anticipated by U.S. Patent No. 6,522,772 to Morrison et al. (hereinafter "Morrison") in view of U.S. Patent No. 6,408,279 to Mason (hereinafter "Mason"). Applicants respectfully traverse each of the rejections aside from those to claims 5 and 9.

The present Office Action was written in response to an RCE filed September 25, 2007 and supplemental comments filed September 27, 2005. The present Office Action, however, does not respond to any of Applicants arguments laid out the in the Request for Continued Examination, simply stating that all arguments were moot in light of the new rejects in the present office action. However, many rejections listed in the present office action are identical, to the letter, in part or in whole, to rejections to cited by the Examiner in the previous office action of April 25, 2006. As a result, the present office actions includes rejections that use claim language removed by amendment and ignore claim language added by amendment. This makes it unclear as to whether the Examiner gave due considerations to Applicants' amendments and arguments. When the applicant traverses any rejection, the Examiner should take note of the applicant's argument and answer the substance of it. MPEP § 707.07 (f). Applicant asserts that the Examiner did not meet his duty to respond to all of Applicants arguments and this deprived Applicant of administrative due process by taking away a full dialogue with the United States Patent and Trademark Office , i.e. a "bite of the apple," that the Applicant was entitled to. Accordingly, it is respectfully requested that the Examiner withdraw the present Office Action as being a deficient response to Applicants' prior Response under the MPEP.

Regarding more substantive matters, Applicants' remarks, set forth below, are preceded by related comments of the Examiner set forth in small indented bold-faced type.

Claim 1

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Claim Rejections – 35 U.S.C. 103

> 5. As per claim 1, Morrison et al teach a self-checkout system comprising: a self-checkout station configured for customer-operated self-checkout of items for purchase; and a controller operatively coupled to the mobile terminal and to the self-checkout station, the controller being configured administer communication between checkout station and supervisor terminal to send data over a network to the selected supervisor terminal instructing the mobile terminal to initiate a biometric data capture operation, the biometric data capture operation being related to a self-checkout transaction *(fig 1, column 2 lines 44-3 line 18, 8 lines 46-60, and the entire disclosure)*. Morrison et al fail to teach a plurality of supervisory terminals of which a least one is a mobile terminal comprising a wireless network and a biometric sensor configure to monitor and supervise self-checkout transactions. However, Mason teach a plurality of supervisor terminal of which a least one is a mobile terminal comprising a wireless network and a biometric sensor configure to monitor and supervise self-checkout transactions. *(fig 1 column 4 lines 8-44)*. Therefore, it would have been obvious to one of ordinary skill in the art a [sic] the time the invention was made to modify the inventive concept of Morrison et al to include Mason's plurality of supervisor terminal of which a least one is a mobile terminal comprising a wireless network and a biometric sensor configure to monitor and supervise self-checkout transactions because this would have enhance the flexibility of the system by allowing customer to purchase any item without the help of any cashier.

The undersigned has reviewed the above-indicated rejections in the present Office Action and respectfully traverses these rejections for reasons set forth herein.

To establish a case of obviousness, among other things, the Examiner must demonstrate that the prior art references include all the claimed limitations of the present invention. The Examiner has not done so.

Essentially Morrison is cited for everything in the first and third clauses of Applicants claim 1, *inter alia*, (1) a self-checkout station and (2) **a controller** (3) **coupled** to the self-checkout terminals and a plurality of supervisory terminals; Mason is cited for the second clause of Applicants claims 1, *inter alia*, (5) a plurality of supervisor terminals and (6) **at least one mobile terminal** (numerals and emphasis added.)

Contrary to the Examiner's contention, Mason does not come close to teaching or suggesting any mobile terminal. In the section of Mason cited by the Examiner, column 4, lines 8-44 and figure 1, Mason refers to "remote supervisor terminals 22." See column 4, lines 28. However, these remote supervisor terminals 22 **are not mobile**. No mention is ever made in the cited section of any mobility. Mason further describes the remote supervisory terminals 22 in column 6, lines 30-42. Each remote supervisory terminal, Mason states, includes a "monitor 60, speaker 64 and printer 66." See column 6, lines 33-34. These features are shown in Figure 3. As can plainly be seen from

Figure 3, this is not a mobile terminal but a standard computer station networked into the self-checkout station. Further, Mason states that the supervisory terminal may be a "*stand* alone" terminal or integrated with the self-checkout station. See column 6, lines 34-42. In neither of these embodiments is the remote supervisory station mobile. Thus, Mason does not disclose "a plurality of supervisory data terminals, of which at least one is a mobile terminal comprising a wireless network interface and a biometric data sensor, configured to monitor and supervise self-checkout transactions" as claimed, *inter alia*, in Applicants claim 1. Further, as no mobile terminal is present, neither Morrison or Mason teaches a "mobile terminal to initiate a biometirc data capture operation," as claimed, *inter alia*, in applicants claim 1.

Further contrary to the Examiner's contention, Morrison does **not** teach "a controller" *or* an operative coupling of the controller to between such a controller "to the self-checkout terminals and a plurality of supervisory terminals", as claimed, *inter alia*, in Applicants claim 1. This was pointed out in Applicant's prior office action. Morrison further does not disclose a supervisory terminal, although the Examiner was unclear whether he was citing Morrison or Mason for this limitation.

Instead, Morrison et al. simply discloses a processing unit 26 that is coupled to a memory device 27 and to a network 25, wherein the processing unit processes data received during a self-checkout process, communicates with memory device 27, and also communicates with network 25 through a wire or wireless interface. Morrison et al., col. 8 lines 46-60. Essentially, Morrison discloses a computer- one located in a terminal 24 that is similar to an ATM (see Figure 1; column 4, lines 1-11.) The computer, however, **is not a controller** that "administers communications *between*" two devices, but a central unit that itself is the terminus or origin of communications. Further, the processing unit 26 it located in a terminal used by a consumer, not by a supervisor. In fact, nowhere in Morrison is a terminal disclosed that is used by a supervisor. Thus, **Morrison does not disclose a supervisory terminal**.

Further, Morrison does nor disclose coupling of controller to a self-checkout terminal and a supervisory terminal. This makes sense. Since Morrison does not have a supervisory terminal, there is no need to have a controller that is coupled to a supervisory terminal. Not only that, however, Morrison does not even have a controller coupled to the self-checkout terminal. Morrison discloses a single checkout terminal that encompasses the processor cited by the Examiner as well as numerous other features. Applicant directs the Examiner's attention to Figure 1- here the number '10' refers to a "checkout terminal". See, again, column 4, lines 1-11 to see that the checkout terminal

encompasses processor 26, which Applicant believes the Examiner is equating to a controller. <u>Processor 26 is part of the self-checkout terminal,</u> and indeed, is the CPU of the self-checkout terminal. Morrison's processor cannot be coupled to the self-checkout terminal because it *is* the self-checkout terminal. There therefore is no coupling between the controller and the self-checkout terminals and a plurality of supervisory terminals as claimed in Applicant's claim 1.

Applicants therefore submit that neither Morrison or Mason include, alone or in combination, at least the following: a controller, a controller operatively coupled to the plurality of supervisory terminals, mobile supervisory terminals, or a controller being configured to administer communications between checkout stations and supervisory terminals, and to send data over a network to a selected supervisory terminal instructing the mobile terminal to initiate a biometric data capture operation. See MPEP § 706.02(j) ("the prior art reference (or references when combined) must teach or suggest all the claim limitations").

Since Morrison and Mason do not describe or suggest all the claimed limitations of the present invention, claim 1 is allowable over the cited references.

<u>Claims 2-12</u>

At the outset, it is readily apparent that the Examiner simply copied and repeated rejections of these claims from the prior office action. Applicant will therefore make assumptions as to what they believe the Examiner was trying to say.

<u>Claim 2</u>

Claim 2 was rejected over Morrison. It is believed that the Examiner intended to reject claim 2 over Morrison in view of Mason. Further, it is believed that the Examiner intended to state Morrison [in view of Mason] teaches "<u>supervisory</u> terminals," instead of just "terminals," as the term supervisory, among others, was amended into the claims in the April 25, 2006 amendment. Regardless, neither Morrison nor Mason teach a "mobile supervisory terminal," as claimed, *inter alia*, in Applicants' claim 2, for reasons discussed above. Therefore, claim 2 is allowable. Further, claim 2 is allowable by dependency on claim 1 for all the reasons discussed above.

<u>Claim 3</u>

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Claim 3 was rejected over Morrison. It is believed that the Examiner intended to reject claim 3 over Morrison in view of Mason. Claim 3 is allowable by dependency on claim 1 for all the reasons discussed above.

Claim 4

Claim 4 was rejected over Morrison. It is believed that the Examiner intended to reject claim 4 over Morrison in view of Mason. Claim 4 is allowable by dependency on claim 1 for all the reasons discussed above.

Claim 5

Claim 5 was rejected over Morrison. It is believed that the Examiner intended to reject claim 5 over Morrison in view of Mason. Regardless, claim 5 has previously been cancelled, making subsequent rejections moot.

Claim 6

Claim 6 was rejected over Morrison. It is believed that the Examiner intended to reject claim 6 over Morrison in view of Mason. Claim 6 is allowable by dependency on claim 4 for all the reasons discussed above.

Claim 7

Claim 7 was rejected over Morrison. It is believed that the Examiner intended to reject claim 7 over Morrison in view of Mason. Claim 7 is allowable by dependency on claim 6 for all the reasons discussed above.

Claim 8

Claim 8 was rejected over Morrison. It is believed that the Examiner intended to reject claim 8 over Morrison in view of Mason. Further, it is believed that the Examiner intended to state Morrison [in view of Mason] teaches "supervisory data terminals," instead of just "data terminals," as the term supervisory was amended into the claims in the April 25, 2006 amendment. Regardless, neither Morrison nor Mason teach a "plurality of controllers," as claimed, *inter alia*, in Applicants' claim 8. Morrison does not even teach a single controller as for reasons discussed above under the discussion of claim 1. Mason does not cure this deficiency, as the closest thing Mason teaches comparable to a controller is a network, and Mason does not disclose a plurality of networks.

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Therefore, claim 8 is allowable for the additional inclusion of a "plurality of controllers". Further, claim 8 is allowable by dependency on claim 4 for all the reasons discussed above.

Claim 9

Claim 9 was rejected over Morrison. It is believed that the Examiner intended to reject claim 9 over Morrison in view of Mason. Regardless, claim 9 has previously been cancelled, making subsequent rejections moot.

Claim 10

Claim 10 was rejected over Morrison. It is believed that the Examiner intended to reject claim 10 over Morrison in view of Mason. Further, it is believed that the Examiner intended to state Morrison [in view of Mason] teaches "supervisory data terminals," instead of just "data terminals," as the term supervisory, among others, was amended into the claims in the April 25, 2006 amendment. Regardless, neither Morrison nor Mason teach a "mobile supervisory data terminal," as claimed, *inter alia*, in Applicants' claim 10, for reasons discussed above. Therefore, claim 10 is allowable. Further, claim 10 is allowable by dependency on claim 1 for all the reasons discussed above.

Claim 11

Claim 11 was rejected over Morrison. It is believed that the Examiner intended to reject claim 11 over Morrison in view of Mason. Claim 11 is allowable by dependency on claim 4 for all the reasons discussed above.

Claim 12

Claim 12 was rejected over Morrison. It is believed that the Examiner intended to reject claim 12 over Morrison in view of Mason. Claim 12 is allowable by dependency on claim 11 for all the reasons discussed above.

Claims 13-14

> **17. As per claim 13, Morrison et al teach a method for self-checkout of items that are sold on a restricted basis, the method comprising following scanning of an item by a self-checkout customer,...in response to the signal indicating a need for supervisory assistance, initiating an exception process whereby input is received from a store attendant to cause a new database record to be generated, the new database record enabling automated age verification of the customer during subsequent purchase transactions (fig. 1, column 1 lines 25-57, column 2 lines 44-3**

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line 18, 8 lines 46-60, and the entire disclosure)... Mason teaches a system for
matching record received through a system controller using a selected supervisor
terminal.

Morrison is cited by the Examiner for teaching everything in claim 13 except "a system for matching record received through a system controller using a selected supervisor terminal." Mason is cited for teaching this limitation. In rejected over Morrison in view of Mason, the Examiner did not use language directly from amended claim 13, instead using language from the claim 13 prior to amendment. Applicants submit that Morrison does not teach what the Examiner asserts for the same reasons stated in Applicants' RCE response[1]. Regardless, neither Morrison nor Mason disclose a mobile terminal as now claimed in amended claim 13.

As argued by Applicant in the above section relating to claim 1, Mason does not cite a mobile supervisor terminal. Mason describes the remote supervisory terminals 22 in column 6, lines 30-42. Each remote supervisory terminal, Mason states, includes a "monitor 60, speaker 64 and printer 66." See column 6, lines 33-34. These features are shown in Figure 3. As can plainly be seen from Figure 3, this is not a mobile terminal but a standard computer station networked into the self-checkout station. Further, Mason states that the supervisory terminal may be a "*stand* alone" terminal or integrated with the self-checkout station. See column 6, lines 34-42. In neither of these embodiments is the remote supervisory station mobile.

Further, Mason does not teach a controller that *selects* a supervisory terminal as claimed in claim 13. Instead, all supervisory terminals in Mason are equally active.

Thus, neither Morrison nor Mason disclose "input is received through a system controller from a store attendant using a selected mobile supervisory data terminal to cause a new database record to be generated" as claimed, *inter alia*, in Applicants amended claim 13.

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[1] In contrast, Morrison et al. discloses an exception process whereby the signal received from the self-checkout station merely attracts the attention of store attendants, requiring an attendant in every case to approach the self-checkout station to provide assistance to the store customer at the self-checkout station cite. Claim 13 discloses, *inter alia*, whereby input is received through a system controller from a store attendant using a selected supervisory data terminal, i.e. not from the checkout station. In this claim, the controller selects a certain supervisory terminal to handle the request for assistance; and, said selected supervisory terminal is used to create and send a new database record to enable automated age verification by the self-checkout system in subsequent purchase transactions. Morrison et al. fails to disclose a system controller, a supervisory terminal, an efficient, selective allocation of supervisory tasks to a selected supervisory terminal, or an exception process in which these elements are used.

Since Morrison and Mason do not include all the claimed limitations of the present invention, claim 13 is allowable over the cited references.

Claim 14 depends from claim 13 and is patentable for at least the same reasons stated with respect to claim 13.

Claims 17-18

> **19.** As per claim 17, Morrison et al teach a method of processing input at a supervisory terminal in a self-checkout system using a handheld supervisory device, the method comprising: at a self-checkout system, generating a supervisory request signal indicating that input of customer biometric data is required to further the processing of a self-checkout transaction by a customer, transmitting the supervisory request signal to a handheld supervisory device, the handheld device comprising a biometric sensor; and at the handheld supervisory device, receiving the supervisory signal, presenting a prompt alerting a user of the handheld device that input of customer biometric data is necessary; receiving customer biometric data at the biometric sensor; and transmitting the biometric data to the self-checkout station (*Fig 1, Column 2 lines 44-3 line 18, 8 lines 46-60, and the entire disclosure*). Morrison fail to teach a supervisor terminal which a least one is a mobile terminal. However Mason teaches a supervisor terminal which a least one is a mobile terminal (fig. 1 column 4 lines 8-44).

In the rejection for claim 17, the Examiner again copied and pasted in a rejection from the Office Action dated April 25, 2006 and added a sentence relating to Mason. None of the language added in the amendments of September 25, 2006 were referenced in the present Office Action. Indeed, it is unclear if the Examiner even considered the arguments set forth in that amendment. For the record, claim 17 now reads (w/edits from September 26 amendment):

> A method of processing input at a supervisory terminal in a self-checkout system using at least one handheld supervisory ~~device~~ data terminal, the method comprising: at a self-checkout station, generating a supervisory request signal indicating that input of customer biometric data is required to further the processing of a self-checkout transaction by a customer, transmitting the supervisory request signal through a system controller to a selected handheld supervisory data terminal, said handheld ~~device~~ terminal comprising a biometric sensor; and at the handheld supervisory ~~device~~ data terminal, receiving the supervisory request signal through a system controller, presenting a prompt alerting a user of the handheld ~~device~~ terminal that input of customer biometric data is necessary; receiving customer biometric data at the biometric sensor; and transmitting the biometric data to the self-checkout station for further processing.

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Again, for the purpose of this response, Applicant will assume the Examiner intended to cite Morrison against the amended version. The Examiner contends that Morrison et al. discloses a method of processing input during a self-checkout procedure employing, *inter alia,* a handheld supervisory terminal, generation and transmission of a supervisory request signal through a system controller to a selected handheld supervisory terminal that comprises a biometric sensor, generation of biometric data at the supervisory terminal and transmission of such data to a self-checkout station. The Examiner's contention and rejection of claim 17 is respectfully traversed.

Contrary to the Examiner's contention, Morrison et al. does not disclose, in any of the places cited by the Examiner or anywhere in the Morrison disclosure, a handheld supervisory terminal that comprises a biometric sensor, OR a system controller OR a selection OR the transmission of biometric data through a system controller to and from such select handheld supervisory terminal, OR the use of such supervisory terminal to receive a supervisory request signal, OR the use of such supervisor terminal to present a prompt, receive customer biometic data and transmit biometric data.

Specifically, (i) Morrison et al does not disclose any handheld supervisory terminal or any other supervisory device that is used to remotely supervise self-checkout transactions, and therfore does not have a "handheld supervisory ~~device~~ data terminal, receiving the supervisory request signal through a system controller, presenting a prompt alerting a user of the handheld ~~device~~ terminal that input of customer biometric data is necessary; receiving customer biometric data at the biometric sensor; and transmitting the biometric data to the self-checkout station for further processing," as claimed, *inter alia,* in claim 17; (ii) the supervisory request signal of Morrison et al. is limited in content and merely attracts the attention of store personnel without providing detailed information on the supervisory request, thereby requiring a store attendant to approach the self-checkout station in each case and regardless of the nature of the request for assistance (col. 14 lines 1-27) and thereby does not transmit "through a system controller"; and (iii) there is no system controller in Morrison nor any selection of a supervisory terminal by the system controller, instead it discloses a processor that is part of a display terminal and makes no selections.

The Examiner states that Morrison fails to teach a "supervisor terminal which at least one is a mobile terminal," but cites Mason for this proposition. At the outset, Claim 17 does not recite a mobile terminal and Applicant assumes the Examiner intended to cite mason for a "handheld terminal." **More substantively, Mason does not disclose any handheld terminals (or mobile terminals) as claimed, *inter alia,* in claim 17**. As argued above, in the section cited by the

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Examiner, Mason discloses 'remote supervisory terminals' but does not mention any mobile or handheld devices. Mason describes the remote supervisory terminals 22 in column 6, lines 30-42. Each remote supervisory terminal, Mason states, includes a "monitor 60, speaker 64 and printer 66." See column 6, lines 33-34. These features are shown in Figure 3. As can plainly be seen from Figure 3, this is not a mobile terminal but a standard computer station networked into the self-checkout station. Further, Mason states that the supervisory terminal may be a "*stand* alone" terminal or integrated with the self-checkout station. See column 6, lines 34-42. In neither of these embodiments is the remote supervisory station mobile or handheld.

Since Morrison and Mason do not include all the claimed limitations of the present invention, claim 17 is allowable over the cited references.

Claim 18 depends from independent claim 17 and is patentable for at least the reasons noted above. Accordingly, Applicants submit that claims 17 and 18 are patentable for the reasons noted above, and notice to the effect that these claims are in condition for immediate allowance is respectfully requested.

Conclusion

For at least the reasons cited above, it is respectfully submitted that the Examiner's rejections under 35 U.S.C 103 are improper. Accordingly, notice to the effect that independent claims 1, 15 and 17 and dependent claims 2-4, 6-8, 10-12, 16 and 18 as amended, are in condition for immediate allowance is respectfully requested.

By the herein presented Amendments to claims, Applicants have made diligent efforts to place this application in condition for allowance, and notice to this effect is respectfully solicited. Allowance of this application is courteously urged.

If there remain any questions regarding the present application, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact the undersigned to enable the undersigned to arrange for an interview with the Examiner.
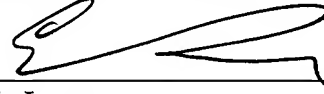
Application No. 10/687,721
Amendments in Response to Office Action of November 2, 2006

The Commissioner is authorized to charge the fees required in connection with this submission to Deposit Account No. 50-0521.

Respectfully submitted,

Date: May 2, 2007

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